

Remarks

Claims 1, 17, 19, 20, 35, 42, 47, 78, 93 and 106-126 were pending in the subject application, of which claims 1, 17, 19, 20, 35, 42, 47, 78, 113, and 114 are withdrawn from consideration. Claim 20 has been cancelled in this amendment without waiver, disclaimer, or prejudice. Claim 115 has been amended to recite that the method comprises contacting cells with a test agent in vitro (e.g., in cell culture), with a further step (c) of administering the test agent to a mammalian organism. Claim 127, directed to embodiments of claim 93 that comprise contacting cells with a test agent in vitro has been added. No new matter has been added.

Applicant respectfully requests entry of the subject amendment such that claims 93 and 106-127 will be pending.

Restriction Requirement

The Examiner states that claim 93 is drawn to the method being performed (1) in vivo, and (2) in vitro followed by in vivo, and requires Applicants to elect one. Applicants understand the election to be between species of claim 93 in which:

(1) the step of “(a) contacting (i) an agent to be assessed for its ability to regulate expression of OXPHOS-CR genes with (ii) a test cell” takes place “in an organism” (as recited in claim 120); and

(2) the step of “(a) contacting (i) an agent to be assessed for its ability to regulate expression of OXPHOS-CR genes with (ii) a test cell” takes place “in vitro”, and the method comprises a step of “(c) administering the test agent to a mammal” (as recited in claim 115).

Based on this understanding, Applicants elect (2) “in vitro followed by in vivo” for purposes of initial examination. Claims 93, 106-119, and 121-127 encompass the elected species.

In response to the species election requirement on the mammalian organism, Applicants elect a “test animal that serves as a model for a disorder characterized by glucose intolerance,

insulin resistance, or decreased mitochondrial function” (as recited in claim 117) for purposes of initial examination. Claims 93, 106-115, and 117-127 encompass the elected species.

In response to the requirement to elect a mammalian or non-mammalian test cell, Applicants elect “mammalian” for purposes of initial examination. Claims 93 and 106-127 encompass the elected species.

Applicants believe no fee is due with this response other than the fee for a three month extension of time. However, if an additional fee is due, please charge our Deposit Account No. 18-1945, under Order No. WIBL-P01-013 from which the undersigned is authorized to draw.

Dated: December 2, 2009

Respectfully submitted,

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